

January 2, 2006

## **Detroit Multifamily Hub Protocol for Review of Closing Documents and Initiation of Closing**

**Closing Coordinator.** The Closing Coordinator for the Detroit Multifamily Hub is (Patrick Berry), (Closing Coordinator) (Telephone (313) 226-4900, Extension 8155). The Closing Coordinator will coordinate (a) receipt and review of draft closing documents within the Multifamily Hub ("MF Hub"); (b) examine, double check for accuracy, summarize and disseminate the technical staff reviews to Office of Counsel (OC); (c) coordinate scheduling of the closing with the OC and Lender's Representative; (d) inform the project Construction Analyst who will set and coordinate the pre-construction meeting with all parties and HUD Labor and FHEO Divisions, if required; and (e) assign a Project Manager to assist in the closing, which will generally be the MAP or TAP Project Manager (Representative).

**Cost Certification on 223 F Projects.** Cost certification with supporting documents is required at least 15 days prior to Final Endorsement.

**Receipt of Closing Packages.** Lender's Representative will send the Closing Coordinator three bound packages of draft closing documents for review by MF Hub technical staff and the OC. Please note that packages arriving at HUD's Detroit mailroom in the morning by regular mail or by overnight delivery reach MF Hub staff in the mid-afternoon, and packages arriving in the afternoon reach us the next morning. Please plan accordingly.

**Content and Acceptability of Packages.** Closing packages must include the checklist found in either the MAP or TAP guides and all checklist documents. The Closing Coordinator will hold closing packages until all checklist documents are submitted. The review of the closing packages will not begin until all documents are received. The Lender's Representative is responsible for obtaining any additional closing documents generated by third parties that require HUD approval, such as secondary financing documents, access easements, building permits etc., and these must be included to constitute a complete package. Only the Lender's Representative may submit closing documents to HUD. Likewise, as the review progresses and the parties prepare for closing, all communications concerning the

documents must include the Lender's Representative, even if the communication is originated by the owner or owner's representative and directed to HUD staff or counsel, as it is HUD's desire that the Lender's Representative be fully informed as to all closing matters. The Closing Coordinator will log in the package, determine that it is complete, and distribute it for review within HUD.

**Amendments to Firm Commitment.** Please note that the lender must submit any requests for amendments to the firm commitment in advance of closing review so that HUD can issue the amendment prior to the lender's submission of closing documents. Even certain minor amendments affect the content of the closing documents, and fewer corrections will be needed if the amendments are completed prior to preparation and review of closing documents.

**HUD's Review and Comments.** The MF Hub technical review of closing documents will commence upon receipt of a complete package. The Closing Coordinator will notify the Lender's Representative if the package is incomplete and when the review has commenced. Upon completion of the technical review the Closing Coordinator will provide technical comments to the OC. The Lender's Representative will provide responses to the comments directly to the OC, which will in turn transmit any programmatic information to the Closing Coordinator. The Closing Coordinator shall then forward these on to the HUD technical staff. Comments from the technical staff shall be provided to the Closing Coordinator and from there given to the OC. The CC will also transmit the program review comments to the Lender's Closing Attorneys directly.

**Lender's Response to HUD Comments.** HUD OC's comments will indicate which, if any, draft documents must be resubmitted for a second review, on the theory that typographical errors or simple matters that the Lender's Representative can control and revise would not require resubmission and can be corrected and presented at closing, unless the Lender's Representative prefers to resubmit the item in question. If HUD OC's comments result in revisions (i) to the title policy, survey or surveyors report (or if those items are revised for any other reason), or (ii) that require analysis by HUD, such items must be resubmitted prior to closing for a second review.

**Execution and Recording of the Regulatory Agreement.** Due to the distance between HUD's Detroit office, where closings are held, and the location of most projects, HUD requires that the documents to be recorded must be approved, executed and recorded prior to closing

so that the closing may proceed and be concluded in a timely manner. Consequently, the Lender's Representative should submit the execution copy or copies of the HUD Regulatory Agreement (signed by the owner) at least four business days prior to closing, to allow time for HUD to review it, obtain the necessary signature and notary acknowledgement, and forward it for recording, all of which must occur sufficiently in advance of closing for the title company to complete the recording and issue the policy for closing. This process may occur simultaneously with HUD's review of the closing documents. We caution lenders that only under unusual circumstances will HUD transmit the executed regulatory agreement on the same day that we received it, due to the timeliness of receiving packages from our mail room prior to mid-afternoon. Please provide advance notice of the day on which the regulatory agreement will arrive at HUD so that we can ensure it is properly handled.

**Scheduling Closings.** Closings will be scheduled on a first-come, first-served basis. Seven business days following HUD's commencement of the technical review, the Closing Coordinator, after consultation with OC, will contact the Lender's Representative to establish a tentative closing date, which will be subject to the availability of all parties, and completeness and timeliness of all required closing documents. The MF Hub will endeavor to close all projects within 21 business days of commencement of the review, subject to docket completeness and timeliness of submissions, and availability of all parties. In no event will the closing date be sooner than 15 business days after commencement of the technical review. As HUD staff and counsel have this period in which to complete their reviews and make their comments, closing on the date selected is subject to satisfactory resolution of any review comments. Special issues may require more time to resolve prior to closing so that they do not unnecessarily prolong the actual closing.

**Postponement of Closings.** Please note that the MF Hub reserves the right to postpone a closing if documents that HUD has required to be submitted by a date certain are not received, or if other circumstances make postponement necessary (such as the parties failure to comply with other HUD requirements or if reprocessing is necessary). Certain documents must be received by the MF Hub no later than three days prior to the scheduled closing date. Those documents will be specifically identified for a particular project in the MF Hubs comments, but may include building permits, plans, any documents not previously reviewed by HUD, any third-party items such as title and survey, and any final drafts that required re-review.

If any such documents are not received three business days prior to closing, or such other date as HUD specifies, the closing will be postponed to the third business day after receipt of such documents, or such subsequent, mutually-acceptable date that HUD and the Lender's Representative may select.

**Pre-construction Orientation Meeting.** All Michigan initial closings are performed in the Detroit office, which requires the presence of most of the parties that will be involved in any construction phase (if repairs and/or construction are required). If any insured mortgage or Capital Advance has repairs and/or construction, a mandatory pre-construction orientation meeting will be held in Detroit on the day of the initial closing. \*

*Required Construction Documents:*

The lender is responsible to make sure that the following documents be supplied to the field office no later than ten (10) business days prior to the initial closing date.

1. Plans and specifications
  - HUD handbooks specify three sets of plans, signed and sealed by the design Architect. (If the owner, architect or contractor require their own signed copies the lender must make sure that these be supplied along with the required three sets.)
  - These plans and specifications must be the same as those approved in the application review process, with the same revision dates.
  - If there are amendments, changes, modifications, etc. that have occurred after the firm submission the architect must SEPERATELY submit the AMENDED pages (Amended pages must indicate all amendments, changes, modifications, etc. and the submission must contain ONLY the AMENDED pages) for the CA to review no later than ten business days prior to closing. (NOTE: In lieu of submitting only amended pages the architect may choose to submit complete sets of plans and include a sheet-by-sheet list of all amendments, changes, etc. on the Architect's letterhead certifying that the list are the only changes, modifications, etc. since Firm Submission).

- All sets of Plans and Specifications must have a signature plate on the cover page for: the Architect, Owner, General contractor and Bonding Agent. (HUD will stamp initial blocks on each page of the Master set.)
- 2. Wage determinations
  - The wage determination that is in effect on the date of the initial closing must be available for signing (These can be obtained from the wage and labor division and are generally bound with the specifications.)
- 3. Building Permits

A HUD assigned Construction analyst will perform the orientation from a prepared outline. All attending parties will receive a copy of this outline along with minutes of the meeting signed by the attendees.

\* If requested, the Detroit office will consider, on a case-by-case basis, holding the Pre-construction Orientation in the Grand Rapids office. Because construction cases must begin within 10 days of the initial close, the lender is advised to make this request allowing ample time for the consideration, logistics, etc. for this to occur within three days of the date of the initial close.

**Closing Day Coordination.** Upon arrival of closing participants, the receptionist on the 17th floor will notify the assigned Project Manager/CC, who will conduct them to the Development conference room. When the Lender's Representative informs the Project Manager/CC that they are ready to begin the closing, the Project Manager/CC will notify the OC closing attorney. The Project Manager/CC will be generally available during the closing to assist with communication and transmission of documents between the closing participants and MF Hub technical staff. Please advise both the Project Manager/CC and the HUD closing attorney of any special needs or timing issues, such as funding deadlines and airline schedules. If a participant in the closing is delayed in arriving at the closing, that participant should notify the Lender's Representative as early as possible, and the Lender's Representative should notify the Project Manager/CC. We will make every effort to complete the closing promptly, and we ask that other participants do the same.